THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.14307 of 2006

13.06.2006

Between

C.Yadaiah, S/o.Mogulaiah

… Petitioner

AND

The Mandal Revenue Officer, Himmayath Nagar Mandal, Hyderabad District

And others

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.14307 of 2006

-

ORDER:

A chit fund organization was allegedly being run by petitioner's wife. The third respondent was a subscriber of a chit. In connection with the said transaction a cheque was given to the third respondent, which was dishonoured. Thereupon the third respondent filed a consumer disputes case being C.D.No.1288 of 2004 on the file of the Court of the Consumer Disputes Redressal Forum, Hyderabad (hereafter called, the District Forum). The same was allowed and the petitioner herein was directed to pay a sum of Rs.1,45,000/- together with compensation of Rs.3,000/- and costs within one month from the date of the order. The petitioner filed an appeal before the Consumer Disputes Redressal Commission (hereafter called, the State Commission). The same being F.A.No.1724 of 2005 was dismissed. The third respondent, therefore, filed a penalty petition being P.P.No.83 of 2005 under Section 27 of the Consumer Protection Act, 1986 (the Act, for brevity). A Non-Bailable Warrant was ordered. Again the petitioner filed F.A.No.1724 of 2005 before the appellate Forum. It is alleged that the state Commission suspended the order of the District Forum issuing NBW on condition of transferring a sum of Rs.25,000/- deposited by the petitioner to the District Forum. In the meanwhile, the third respondent filed another application before the District Forum under Section 29 of the Act, which was dismissed. The petitioner preferred revision petition being R.P. No.92 of 2006 before the State Commission, which according to the petitioner, set aside the order of the District forum. The petitioner alleges that as per the order of the State Commission, the District Forum again registered the petition under Section 25 of the Act and in the meanwhile District Forum by order dated 29.6.2006 directed the petitioner a sum of Rs.1,20,000/- with interest at 6% per annum through demand draft in favour of the third respondent within seven (7) days from the date of the notice. The said order was issued by the first respondent as per the instructions of the second respondent dated 08.6.2006, aggrieved by the same, the present writ petition is filed.

Learned Counsel for the petitioner submits that when the appeal filed by the petitioner being F.A.No.1724 of 2005 against the order of the District Forum in P.P.No.82 of 2005 is pending, it was improper for the first respondent to issue the impugned notice. Learned Counsel, however, does not dispute that it is always open to the petitioner to obtain appropriate orders from the State Commission.

This Court has given due consideration to the background of the case and point raised for consideration. When the petitioner has availed remedies provided under the Act, at every stage, before the primary Forum as well as appellate Forum, a writ petition would not lie. The petitioner has to work out his remedies by moving the State Commission. Further as seen from the affidavit accompanying the writ petition, the petitioner lost the consumer disputes case as well as appeal. In the matter of execution when the primary Forum is proceeding in accordance with law, the same does not warrant any interference in exercise of extraordinary jurisdiction. The petitioner has specific remedies provided under the Act before duly constituted Forums.

The writ petition is misconceived and is, accordingly, dismissed.

_____

(**V.V.S.RAO, J**)

July 13, 2006.

YS